



Responsiveness Summary
for the
Former Coleman Creosoting Works Site,
333 Elliott Avenue West,
Seattle, Washington

Prospective Purchaser Consent Decree
and Associated Documents

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Introduction

The Washington State Department of Ecology (Ecology) held a public comment period from December 1-30, 2002 on a draft Prospective Purchaser Consent Decree, Cleanup Action Plan, State Environmental Policy Act (SEPA) environmental checklist, and SEPA Determination of Non-Significance (DNS) for the former Coleman Creosoting Works and former Ivars' Captain's Table Restaurant at 333 Elliott Avenue West (333 Elliott), Seattle, Washington. The Prospective Purchaser Consent Decree is the legal document between Ecology and the prospective purchaser, 333 Elliott Avenue West, LLC, to conduct the proposed cleanup. The site is currently owned by Pacific Sound Resources, Inc., in Seattle, King County, Washington.

Public involvement activities related to this public comment period included:

- Distribution of a fact sheet describing the site and associated documents through a mailing and local distribution to approximately 365 people, including neighboring businesses and other interested parties (mailed November 27, 2002);
- Publication of a paid display ad in *The Seattle Times* on December 2, 2002;
- Publication of notice in the Washington State Site Register, dated December 10 and 24, 2002;
- Publication of notice in the SEPA Register;
- Posting of the site documents on the Ecology web site; and
- Providing copies of the site documents through information repositories at Ecology's Northwest Regional Office and the Seattle Public Library-Central Branch on November 27, 2002.

Six comments were received concerning: air quality permitting; cultural resource consideration on the location proposed for the site excavation; liability of former owners, current owners, or government entities for contamination from this site; potential contamination on adjacent properties; and potential cleanup activity impacts on adjacent properties.

Based on public comment, a cultural resource monitoring plan was developed with the Suquamish Tribe to address the tribe's comments. This plan is included as an attachment to the Cleanup Action Plan which was not revised. Ecology has finalized the Prospective Purchaser Consent Decree with no revisions and has entered into this consent decree with 333 Elliott Avenue West LLC. The SEPA environmental checklist and DNS have not been changed. Cleanup work will occur in conjunction with development activities and according to the current schedule, work is estimated to begin in 2004/2005.

Background and Proposed Cleanup

Soil and groundwater are contaminated at the site with creosote, a common wood preservative substance including total naphthalenes (naphthalene) and carcinogenic polynuclear aromatic hydrocarbons (cPAHs). This probably occurred when Coleman Creosoting Works operated at the site and treated lumber with wood preservative. The proposed cleanup includes:

- Excavation of contaminated soil and off-site disposal at a certified landfill (or treatment and recycling where practical);
- Groundwater collection, containment, and treatment during excavation;
- Groundwater collection, control, and treatment during basement dewatering as required during the lifetime of the proposed development;
- Groundwater source removal and monitoring for natural attenuation;
- Excavation, delineation and treatment of hot spots if discovered; and
- Compliance monitoring.

Comments Received and Ecology Responses

Kwame Agyei, Puget Sound Clean Air Agency:

- 1.a. **Air quality permitting:** “If the project needs controls to stay below 15 lb [pounds] of benzene, 15 lb of vinyl chloride, 500 lb of perc [perchloroethylene, also called tetrachloroethylene], or 1000 lb of toxic air contaminants, we require a permit. If they do not need controls to stay below the limits, we do not require a permit but they should keep documentation to document the exemption. Ref: Puget Sound Clean Air Agency Regulation I, Section 6.03 (c) (94).”

Response: The Cleanup Action Plan requires air monitoring for the chemicals of concern (C-O-Cs). At this site the C-O-Cs are estimated to be naphthalenes and carcinogenic poly-nuclear aromatic hydrocarbons and not benzene, vinyl chloride, perchloroethylene, nor total toxic air contaminants. The Engineering Design Report (EDR) will be completed prior to implementing the Cleanup Action Plan, and the EDR will evaluate the level, frequency and type of air monitoring recommended for this site cleanup. If the estimated levels for the C-O-Cs approach the Puget Sound Clean Air Agency regulation levels, then a permit application will be submitted and the monitored levels will be reported as required. The Cleanup Action Plan requires protection and performance monitoring per the requirements of WAC 173-340-410.

This comment does not change any of the documents that were available for public comment.

Stephen K. Koehler, Koehler & Company, 401 Elliott West LLC:

- 2.a. **Commendation:** “We would like to commend you for entering into a consent decree with 333 Elliott Avenue West LLC in order to promote the redevelopment of the site and allow clean up of The CCW Site [former Coleman Creosoting Works site].”

Response: No response is necessary.

This comment does not change any of the documents that were available for public comment.

- 2.b. **Liability:** “In responding to your public notice we specifically wish to go on record that we do not approve any action taken that would relinquish the liability of the former owners, current landowners or government entities for any contamination of the 401 Elliott West LLC site [an office park located at 351–501 Elliott Avenue West] by The CCW site.

As you may be aware, after the development of our site was completed we received an “Early Notice Letter” that our building site was being added to the Department of Ecology’s list “as a site known to be contaminated by hazardous substances.” The site comments contained in the notice indicated, “cPAH contamination may be from neighboring site, Coleman Creosoting.”

Soon after receiving the Early Notice Letter I spoke with Ron Timm at DOE [Ecology] and told him that we would respond to the Letter because we believe that the voluntary clean up of our site was more extensive than acknowledged by DOE. We are still in the process of responding and expect to have additional information to the DOE within the next few months. If after review of this additional information, DOE continues to list our site we will expect to be compensated for any and all damage caused to 401 Elliott West LLC from any contamination from The CCW Site by The CCW Site’s past and present owners and the government agencies benefiting from the sale of The CCW Site.”

Response: Ecology has listed the 401 Elliott Avenue West site and issued an Early Notice Letter for the site based on known or suspected substances associated with that site and independent of the above mentioned Prospective Purchaser Consent Decree for the former Coleman Creosoting Works site. Ecology will review the additional information for the 401 Elliott Avenue West site when this information is submitted. Ecology encourages you to consider the Voluntary Cleanup Program if known or suspected contamination is confirmed. You may obtain information about the Voluntary Cleanup Program at Ecology’s web site at <http://www.ecy.wa.gov/programs/tcp/vcp/Vcpmain.htm> or call my office at 425-649-7249 and I will send you the VCP information.

This comment does not change any of the documents that were available for public comment.

Timothy G. Leyh, Danielson Harrigan & Tollefson LLP:

- 3.a. **Length and timing of public comment period:** “The time period for comments has been unusually truncated due to the issuance of the DNS [Determination of Non-Significance] immediately before the traditional Holiday period. Because of schedule conflicts, Sabey [Corporation] has been unable to perform a detailed review of the cleanup plan or possible impacts on it during the time available for comment. In addition, certain documents and/or diagrams have been difficult or impossible to download from the Ecology website, further impairing Sabey’s ability to analyze any impacts on it from the cleanup plan. For these reasons, Sabey requests either that the time period for comments be extended another 30 days, or alternatively, that Sabey’s consultants be given an opportunity to meet with Ecology representatives to discuss possible impacts of the cleanup on Sabey.”

Response: All of the documents available for public comment were made available on Ecology’s web site with the exception of the draft Cleanup Action Plan figures (due to size constraints). All of the documents, including these figures, were available at Ecology’s Northwest Regional Office in Bellevue and at the Seattle Public Library-Central Branch. Ecology did not extend the public comment period as this was the only request for an extension. Per their request, Ecology staff did meet with Sabey Corporation consultants on January 30, 2003, to discuss their comments.

This comment does not change any of the documents that were available for public comment.

- 3.b. **Off-site contamination:** “Sabey believes that the current cleanup plan is not adequate and fails to address off-site contamination, possibly including the Sabey property. Sabey currently has no evidence that its property is impacted by contamination from the 333 Elliott site. However, the prior use of the 333 Elliott site for creosoting operations, the nature and extent of contaminants found at the site, and the direction and flow rate of groundwater from the site, all have caused Sabey’s consultants to be concerned that contamination has or maybe migrating from the 333 Elliott site to Sabey’s property. The cleanup plan is inadequate because it does not address the possibility that contaminants may already have left the boundaries of the 333 Elliott property and migrated to other locations, possibly including the Sabey property.”

Response: The 333 Elliott site consultants, Environmental Partners Inc., completed a Remedial Investigation Report and Site Characterization Report in addition to the Cleanup Action Plan including on- and off-property sampling to estimate the extent of contamination. These reports are available for review at Ecology’s Northwest Regional Office, and you may call to make an appointment at 425-649-7190.

Ecology has determined that the Cleanup Action Plan is complete and addresses the known contamination and possible new discoveries of contamination at the 333 Elliott site. Sufficient investigation has been conducted and the reports outline the vertical and horizontal extent of contamination both on- and off-property. As outlined in the Cleanup Action Plan, contamination extends onto a portion of the public right-of-way at West Thomas Street and this is one task in the Cleanup Action Plan. Ecology has no confirmed information that contamination has migrated from the 333 Elliott site onto the Sabey Corporation property.

Compliance monitoring will be conducted during 333 Elliott site cleanup, including the on- and off-property cleanup and including West Thomas Street to confirm that contamination is removed or remediated to the specified cleanup levels listed in the Cleanup Action Plan.

This comment does not change any of the documents that were available for public comment.

- 3.c. **Construction and cleanup activity impacts:** “Sabey believes there is a potential for serious impacts to it by construction and cleanup activities at the 333 Elliott site. The proposed cleanup plan is inadequate because it does not address these impacts or their mitigation.”

Response: Based on available information, there are no estimated impacts to the Sabey Corporation property. All City of Seattle construction permits will be completed. City of Seattle requirements and best business practices are expected to be followed by 333 Elliott Avenue West LLC and its consultants.

Cleanup excavation and development will be implemented following the City of Seattle permit requirements and to minimize impacts to neighboring businesses, traffic, park users and the public. There are no anticipated impacts to neighboring properties with two exceptions: 1) compliance monitoring will occur at West Thomas Street and to the southwest at the Myrtle Edwards Park, and 2) access may be limited from the City of Seattle for excavation at West Thomas Street, a public street.

This comment does not change any of the documents that were available for public comment.

- 3.d. **SEPA/Model Toxics Control Act (MTCA) integration:** “Sabey believes the Notice is ambiguous as to whether it is an integrated SEPA/MTCA action subject to an integrated comment period, pursuant to WAC 197-11-250. This is another justification for an extension of the comment period.”

Response: Every effort was taken to integrate MTCA and SEPA processes and to make clear to the public that the subject of comment included SEPA documents.

This comment does not change any of the documents that were available for public comment.

Marrell Livesay, Seattle Department of Parks and Recreation:

- 4.a. **Groundwater monitoring:** "...The Seattle Department of Parks and Recreation (SDPR) clearly has an interest in the CAP [Cleanup Action Plan] since groundwater contamination above cleanup levels extend and underlie part of Myrtle Edwards Park. I request that SDPR receive copies of the performance monitoring and confirmation monitoring reports discussed in section "6 Compliance Monitoring" of the CAP."

Response: Ecology has agreed to provide copies of the performance and confirmation compliance monitoring reports to the SDPR.

This comment does not change any of the documents that were available for public comment.

Peter Marshall, City of Seattle:

- 5.a. **Construction impact and air quality:** "...would disturbance of the contaminated soils have any potential for exposing [Myrtle Edwards] park users to the dust, requiring us to temporarily close down public access to the park?"

Response: The proposed cleanup will involve excavation, groundwater collection, and treatment and compliance monitoring. This cleanup should not impact the neighboring properties and should not impact recreational use at Myrtle Edwards Park nor air quality for park users, pedestrians or the public. The proposed cleanup will be conducted following the state cleanup regulations including air quality regulations, City of Seattle permit requirements, and best management practices. Every effort will be taken to minimize dust and any impacts to air quality. The chemicals of concern at the site are naphthalene and cPAHs and these substances are not volatile and do not vaporize—additional factors that would minimize air quality issues. As a safeguard, air monitoring will be conducted to ensure that dust is kept to a minimum and that there are no worker or public safety issues during cleanup.

Additionally, for public information and citizen involvement, Ecology will recommend that an information board be located at the site and near the

park to update the public in progress and site cleanup activities.

This comment does not change any of the documents that were available for public comment.

Thomas Ostrom, The Suquamish Tribe:

- 6.a. **Request for a Cultural Resource Assessment:** "...the Tribe requests that a cultural resource assessment be conducted prior to any earth work at the site. A cultural resource assessment should address the potential for discovery of cultural resources and make recommendations concerning the need for an archaeological survey of the site, the necessity for monitoring of project activities, and handling procedures in the event of inadvertent discovery."

Response: An archaeologist was contracted by 333 Elliott Avenue West LLC in response to the Suquamish Tribe's comments. The archaeologist conducted a cultural resource assessment of the site and drafted a cultural resource monitoring plan. The Suquamish, Duwamish, and Muckleshoot Tribes provided input. The archaeologist determined that the monitoring plan will be adequate for identifying and assessing archaeological deposits, if any.

Additionally, the archaeologist will maintain close contact with the Suquamish cultural resources program and will immediately notify designated representatives of any archaeological discoveries. Other tribal contacts will include designated representatives of the Duwamish and Muckleshoot Tribes.

Ecology concurs with the archaeologist's assessment and has approved the Cleanup Action Plan and Prospective Purchaser Consent Decree, with the cultural resource monitoring plan included as an enforceable part of the Cleanup Action Plan under the consent decree for the former Coleman Creosoting Works site.

This comment adds the cultural resources monitoring plan to the Cleanup Action Plan and does not change any of the documents that were available for public comment.